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NOTES:**

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What Is the Best Way to Address Environmental Justice Issues?

Highlights

- ❑ The macro-level approach is a broader approach to developing and incorporating policies, procedures and guidance documents for a state DOT.
- ❑ The micro-level approach is a narrow, project/program specific approach that is largely based on the Federal Highway Administration's Community Impact Assessment process.
- ❑ ADOT's current approach to addressing EJ has been consistent with federal guidelines and generally comparable to other state DOTs that have active programs in place.

Background

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, requires federal agencies to make environmental justice (EJ) part of their mission. As a recipient of federal financial assistance, ADOT is responsible for complying with EJ requirements.

EJ regulations were enacted to ensure minority populations are no longer denied equal protection and benefit from federal programs related to education, employment, healthcare, housing, and welfare. With increased consciousness of the negative effects of environmental harm, there arose a sentiment that minorities should also be assured of equal protections from environmental harm. President Clinton directed all federal departments and agencies to apply existing environmental and civil rights statutes to prevent minority and low-income communities from bearing disproportionately high and adverse environmental effects.

Minority and low-income populations are defined by the USDOT in their final Order 5610.2 on Environmental Justice (Federal Register, April 15, 1997), and the Office of Management and Budget Bulletin No. 00-02 (March 9, 2000). *Low-Income* means a person whose median household income is at or below the Department of Health and Human Services poverty guidelines. *Minority* means a person who is (1) Black or African American, (2) Hispanic or Latino (3) Asian, (4) American

Indian or Alaskan Native, or (5) Native Hawaiian or other Pacific Islander. In some instances agencies include the handicapped (wheelchair-bound) and the elderly in their analyses.

Issues Relating to Transportation

EJ involves the identification of disproportionate impacts to minority or low-income populations. However, “impacts” have been defined in several different ways. Key interpretations of EJ impacts or issues include the following:

Location/siting issues. In general, EJ impacts have been associated with the siting of undesirable or environmentally hazardous facilities in areas that are disproportionately populated by minority or low-income residents. These facilities may include highways. The key issue is that the risks associated with environmental hazards—whether chemical, noise or other effects—are disproportionately located in communities that do not have the resources to contest the siting decisions. Disproportionate adverse impacts to affordable neighborhoods or historically minority neighborhoods could constitute an EJ issue.

Public participation. Another key issue in EJ discussion is the accessibility of and participation in decision-making processes. This encompasses the potential need to reach out to minority or low-income communities, which may require translation of public information into other languages, advertising public meetings in a wider variety of publications, holding public meetings in different neighborhoods or at different times. The key goal of more open public participation is to ensure that decisions are made with full understanding of the issues, and to provide an understanding to the potentially affected communities of the decision-making criteria.

Public transportation access. Typically, low-income and/or minority communities will comprise a greater proportion of the ridership of

public transportation. As a result, public transportation is disproportionately significant to these groups for finding and maintaining jobs, among other responsibilities. Therefore, the provision of adequate public transportation has been interpreted as an EJ issue.

Funding decisions. The prioritization of certain projects may have implications for the communities that receive transportation benefits. Agencies should be attentive to the distribution of funding benefits throughout the entire community.

Methodology

The following methods were used to identify EJ issues:

Literature review. The review focused primarily on the historical background and statutory/legal context of EJ. Sources included journal articles, state DOT publications, legal decisions, and online guidance from the USDOT and state DOTs.

Community Leader Interviews. Twelve community representatives were identified to be interviewed over the phone or in person. The purpose of these interviews was to determine what EJ issues are generally prominent in minority or low-income communities, and the links that these communities perceive between transportation and EJ. The intention was to identify specifically local issues, potentially generate ideas or concerns that have not been developed in the literature, or confirm the scope of issues raised in the literature. The interviewees were selected to represent a wide diversity of organizing issues, race and ethnicity, and income levels. A questionnaire was developed to guide each interview, to aid in comparison and reduce interviewer bias in leading each discussion.

Agency Surveys. A written survey of state DOTs comprised the primary means of investigating the processes that have been established to address EJ, as well as identifying

issues in other states. The written survey was sent via email or U.S. mail to 48 state DOTs. Twenty responses were received, for a response rate of 42%.

Agency Phone Interviews. Because EJ in transportation is still an emerging issue, the majority of the survey respondents had not developed specific EJ programs. The DOTs that responded to the survey and had relatively significant experience with EJ issues were called for further discussion.

Findings

Macro-Level Approach

Each DOT developing an approach to environmental justice should coordinate their efforts with other transportation agencies in the area. Many of the agencies are on the verge of incorporating environmental justice more formally into their policies, programs and procedures. Progressing to formalized programs, procedures and policies is an objective that only a few DOTs have accomplished; however, without this formalization it is sometimes difficult to track whether or not EJ is truly being considered when implementing programs or projects.

In creating guidance documents, other DOTs should be contacted to assess how they approached the development of their programs and to determine the effectiveness of other programs. Additionally, extensive resources are available through the regional offices of the FHWA. Of the three DOTs interviewed via telephone, all three stated that the FHWA regional office was a valuable resource when developing the guidance, planning training, attending meetings and providing overall support for the process.

Once formalized policies and procedures are developed they must be communicated effectively to all staff and departments responsible for program and project development and implementation. A memo or

email would not be adequate communication in this case. Some employees may not be familiar with environmental justice or the importance placed upon it and therefore may not read the memo, policies, etc. Meetings and training sessions would be the preferred method of dissemination for the new policies. Additionally, several of the DOTs suggested that consultants be included in the meetings and training sessions. In fact, one of the DOTs stated that the consultants, more often than not, were not documenting EJ correctly in NEPA documents.

Quality control should be an integral part of any program. Considering the effectiveness of the policies and procedures each year should be automatically built into the EJ approach. Especially given that EJ is fairly new and new approaches are evolving at DOTs throughout the country. If changes are suggested and incorporated, meetings and or training sessions should again be conducted for staff and consultants to communicate the change in policy.

Micro-Level Approach

At the beginning of any project or program a basic geographic area of influence should be determined. This area would be the portion of the community, town, city, neighborhood, population, etc. that would be involved with the project/program. For example, if a transportation agency was interested in modifying existing bus routes, the study area would not only include the streets on which the routes currently run, but the neighborhoods and communities those routes would service.

Once the project study area has been defined then a community profile should be developed. The community profile can be used as the affected environment section of NEPA documents. To create a community profile, according to the USDOT Federal Highways Administration's Community Impact Assessment reference document,

In this step the impacts from the project or program should be investigated and analyzed. According to the USDOT Federal Highways Administration's Community Impact Assessment reference document (Sept. 1996), when looking at impacts and analyzing the effects of the project/program on a community the following guidelines should be utilized:

- ❑ Be cognizant of both positive and negative impacts.
- ❑ Consider both temporary and long-term impacts as well as secondary and cumulative
- ❑ Keep community goals in mind when identifying impacts.
- ❑ Recognize the public's perception of impacts.
- ❑ Focus on the magnitude of an issue or controversy, as it determines the level of specificity the analyst must adopt.

Once impacts are determined, solutions should be investigated and applied to the project. Tools used in this step include avoidance, minimization, and mitigation. Documentation at this level is very important. During this step, the agency is recognizing potential impacts to a

community and committing to avoid, minimize, and/or mitigate the impacts accordingly.

This step in the process is probably the most important. Throughout the steps of the process, reasoning, rationale and actions should be documented and in this stage compiled into the appropriate environmental document. The environmental document should present an accurate, detailed account of the process, findings, data, community, potential impacts, and solutions analyzed throughout the process. Additionally, public involvement should be well documented including public comments, meetings held, scoping and any other public contact.

Recommendation

ADOT's current approach to addressing EJ has been consistent with federal guidelines and generally comparable to other state DOTs that have active programs in place. A few DOTs have applied programs that exceed the minimum requirements of implementation. We recommend that ADOT follow their example and implement a more formalized model for both the macro and micro levels of their organization.

The full report *What Is the Best Way to Address Environmental Justice Issues?* by Amy Jerome and Jennifer Donahue (Arizona Department of Transportation, report number FHWA-AZ-02-506, published January 2002) is available from the Arizona Transportation Research Center, 206 S. 17 Ave., mail drop 075R, Phoenix, AZ 85007; phone 602-712-3138.